

STATE OF LOUISIANA
PARISH OF JEFFERSON

BY: FACSIMILE PURSUANT
TO La. C.Cr.P. ARTICLE 162.1 D

AFFIDAVIT FOR SEARCH WARRANT

BEFORE ME, the undersigned authority, personally came and appeared _____, a law enforcement officer in the Parish of Jefferson, State of Louisiana, who requests that a search warrant issue for the following:

Whole blood from the person of:

RACE/SEX _____ DOB _____ DL# _____
who is currently under arrest for the offense of Operating a Vehicle While Intoxicated _____
Offense (# of offense) under the provisions of La. R.S. 14:98 and in affiant's custody within the territorial jurisdiction of this Court.

The facts and circumstances establishing the basis for the issuance of this Search Warrant are as follows:

Affiant is a full time law enforcement officer with the _____ and has been employed in law enforcement for _____ years. Affiant has successfully completed Police Officer Standardized Training (POST), is certified to perform the Standardized Field Sobriety Test (SFST) and is/ is not (circle one) certified to operate the Intoxilyzer 5000 breath testing machine. This education has trained affiant to detect impaired or intoxicated drivers by:

- 1) Observing their driving behavior which includes but not limited to weaving in and/or out of their lane of travel, traffic signal violations and speeding;
- 2) Observing their physical characteristics which include but not limited to: blood shot eyes, unsteady balance, slurred speech and/or odor of an alcoholic beverage;
- 3) The use of standard field sobriety tests including but not limited to the Horizontal Gaze Nystagmus, the One Leg Stand and the Walk and Turn. These tests have been used by the law enforcement profession and affiant finds they are accurate and reliable indications of impairment/intoxication (or lack thereof). Affiant has arrested numerous people for DWI based upon their poor performance on these tests (as well as releasing many people based upon their satisfactory performance on these tests).

Over the affiant's law enforcement career, affiant has made approximately _____ arrests for Operating a Vehicle While Intoxicated and has observed similar driving behavior and physical characteristics of alcohol/drug impaired drivers on many occasions and his/her suspicions have been confirmed by breath, blood or urine samples that were administered after he performed his investigation.

In this case, affiant or a fellow known law enforcement officer was on patrol on the _____ day of _____, 20____, at _____ o'clock am/pm, when affiant or said fellow known law enforcement officer noticed the suspect operating a motor vehicle in Jefferson Parish, Louisiana. Affiant personally observed or was advised by a fellow known law enforcement officer of the following regarding suspect's operation of the vehicle (be sure to include location of operation, i.e., Hwy. Milepost, landmark):

Upon contacting the suspect, affiant personally observed and/or was advised by a known fellow law enforcement officer of the following physical symptoms that tended to establish that the suspect was under the influence of an alcoholic beverage and/or drug(s):

Odor of alcohol: ☐ Strong ☐ Moderate ☐ Faint ☐ None

Balance: ☐ Falling ☐ Swaying ☐ Unsure ☐ Other:

Speech: ☐ Incoherent ☐ Stuttering ☐ Slurred ☐ Fair ☐ Other:

Other observations:

Indication of drug usage ☐ Yes ☐ No

If yes, state facts supporting this conclusion:

Affiant then conducted Standardized Field Sobriety Tests with the following results:

Horizontal Gaze Nystagmus (HGN)

Did accused refuse to perform HGN test? ☐ Yes ☐ No

Was accused unable to perform HGN test due to impairment/condition? ☐ Yes ☐ No

Right Eye		Left Eye	
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Lack of smooth pursuit
Distinct nystagmus at maximum deviation
Distinct nystagmus onset prior to 45 degrees

Vertical Nystagmus:☐ Yes ☐ No

Other observations:

Walk and Turn

Did accused refuse to perform Walk and Turn test? ☐ Yes ☐ No

Was accused unable to perform Walk and Turn test due to impairment/condition? ☐ Yes ☐ No

- ☐ Cannot keep balance while listening to instructions
- ☐ Starts before instructions are finished
- ☐ Stops while walking to steady self
- ☐ Does not touch heel to toe
- ☐ Loses balance while walking (steps off line)
- ☐ Uses arms for balance
- ☐ Loses balance while turning or turns incorrectly
- ☐ Wrong number of steps

Total steps first nine: second nine:

Other observations:

One Leg Stand

Did accused refuse to perform One Leg Stand test? ☐ Yes ☐ No

Was accused unable to perform One Leg Stand test due to impairment/condition?☐ Yes ☐ No

- ☐ Sways while balancing
- ☐ Uses arms for balance
- ☐ Hopping
- ☐ Puts foot down/number of times:☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ More than 4

Other observations:

Based upon the totality of the circumstances, including the suspect’s actions, statements and performance as stated above, affiant was of the opinion that the suspect was intoxicated or under the influence of an alcoholic beverage/controlled dangerous substance/drugs at which time the suspect was arrested for the offense of DWI under the provisions of La. R.S. 14:98.

The suspect was transported to affiant's office, advised of his/her rights pursuant to La. R.S. 32:661 C and interviewed by affiant. During the interview, (or while being transported) the suspect told the affiant the following:

Did accused admit driving, operating or controlling a motor vehicle or watercraft?

☐ Yes ☐ No

Did accused admit consuming alcohol and/or ingesting controlled dangerous substance or other drug(s)?

☐ Yes ☐ No

If yes, what did accused say was consumed and/or ingested?

How much did accused say was consumed and/or ingested?

Where did accused say the alcohol and/or substance was consumed and/or ingested?

When did accused say the consumption /ingestion began?

Ended?

Did accused say he/she could feel the effects of alcohol and/or controlled dangerous substance and/or drug when stopped? ☐ Yes ☐ No

Other statements made by accused:

After the interview, the affiant directed the suspect to submit to chemical testing of his breath and/or blood or urine, which the suspect refused in violation of the Louisiana Implied Consent Law. This is an indication to affiant that the suspect is attempting to hide evidence of his/her intoxication.

Based upon the affiant's observation of the suspect operating his/her automobile, his/her physical characteristics, his/her performance on the standardized field sobriety tests, his/her statements to affiant and the education, training and experience of the affiant in investigating and arresting intoxicated drivers, affiant has probable cause to believe that this suspect is under the influence of an alcoholic beverage/controlled dangerous substance/drug while he/she was operating a motor vehicle in violation of La. R.S. 14:98.

WHEREFORE, affiant respectfully requests that a search warrant issue authorizing the affiant or any other peace officer in Jefferson Parish, Louisiana, to search for and seize whole blood from the suspect for scientific testing.

AFFIANT

Telephone (504) _____

Fax (504) _____

SWORN TO AND SUBSCRIBED before me this _____ day of _____ 20_____,
at _____ o'clock AM/PM.

DISTRICT JUDGE/CRIMINAL COMMISSIONER
TWENTY-FOURTH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

BY FACSIMILE PURSUANT

PARISH OF JEFFERSON

TO La C.Cr.P. ARTICLE 162.1D

SEARCH WARRANT

TO: Any Peace Officer in the Parish of Jefferson, State of Louisiana

GREETINGS:

Pursuant to the Affidavit for a Search Warrant executed by _____
who has reason to believe that on or within the person of:

RACE/SEX _____ DOB _____ DL# _____

there exists evidence of ethanol and/or a controlled dangerous substance and /or other impairing drug(s) in the blood of the above described person, which constitutes evidence tending to prove the commission of the offense of Operating a Vehicle While Intoxicated in violation of La. R.S. 14:98. I am satisfied that there is probable cause to believe that the evidence so described is located in the blood of the above described person and that legal grounds exist for the issuance of a search warrant; therefore,

IT IS ORDERED THAT:

- 1) the affiant shall immediately and personally serve a copy of this search warrant on the suspect;
- 2) affiant (or any other peace officer) is ordered to seize and secure a sufficient sample of the accused's whole blood by a physician, physician's assistant, registered nurse, emergency medical technician, chemist, nurse practitioner or other qualified technician for the purpose of conducting a scientific test for determining the alcoholic content of the accused's blood and/or the presence of any controlled dangerous substance and/or other impairing drug(s) in the suspect's blood;
- 3) the affiant shall preserve the original executed affidavit for the search warrant and the faxed return of the affidavit and search warrant signed by the judge;

IT IS FURTHER ORDERED THAT:

- 4) to properly exercise the enforcement of this order, any physician, physician assistant, registered nurse, emergency medical technician, chemist, nurse practitioner or any other qualified technician licenses by the State of Louisiana, shall cooperate with any peace officer requesting your professional assistance in the execution of this warrant to obtain the suspect's whole blood;
- 5) any person who violates this order by refusing to lawfully assist in the execution of this order shall be liable for contempt of court and subject to the penalties provided by law.

This warrant may be executed any time of the day or night, including Sunday, at any place the person is found and is directed to any peace officer who may use such means and force as necessary to obtain the whole blood sample as directed in the warrant.

Issued this ____ day of _____, 20____, at ____ o'clock AM/PM

DISTRICT JUDGE/CRIMINAL COMMISSIONER
24TH JUDICIAL DISTRICT COURT
* * * * *

The suspect was given a copy of this search warrant/order on _____, 20____, at _____ o'clock AM/PM.

By: _____
Peace Officer

“NO REFUSAL” INITIATIVE OFFICER PROTOCOL

There have been an inordinate number of traffic fatalities during certain holiday periods when alcohol consumption increases, such as Memorial Day, Labor Day, Halloween, Christmas, etc. This has been noted as a nationwide trend and is addressed by the National Highway Traffic Safety Administration and others in both advertising and public information campaigns and in high intensity patrol or checkpoint programs. The loss of life associated with these dates causes a tremendous amount of grief to survivors for the remainder of their lives. A holiday season that should otherwise be festive suddenly becomes a reminder of death and tragedy. To combat this trend and reduce the number of fatalities and injuries, the Jefferson Parish District Attorney's Office, together with law enforcement agencies in Jefferson Parish have created a plan of action for a “no-refusal” over certain holiday weekends. Although this “no-refusal” initiative was implemented during certain weekends, it is now being implemented every day in Jefferson Parish. This program ensures that every person arrested for DWI who refuses to provide a chemical sample will have a blood sample taken pursuant to a search warrant. This will ultimately allow full prosecution of these offenders, and, more importantly, decrease the number of fatalities and injuries in Jefferson Parish.

Police officers will follow standard DWI procedures. The officer will conduct the investigation as usual and follow normal protocol in making the arrest. The suspect will then be transported to the lock-up for booking and the officer will request chemical analysis of the suspect's breath, blood or urine. Once the officer reads the driver his statutory rights, the driver will either sign the form and submit to the test or refuse the test. If the suspect refuses to submit to the test, then the officer will follow the procedures established for the “no refusal” initiative.

The officer will complete an affidavit and search warrant and contact the judge to inform him/her that they are faxing an affidavit and search warrant for their consideration. A copy of the affidavit and warrant will be provided to each police agency so that they can create a template to expedite the process. The judge will then swear the officer over the phone pursuant to LSA C.Cr.P. Art. 162.1. Once the officer is sworn, he/she will fax the affidavit and search warrant to the judge. If the judge signs the affidavit and warrant, it will be faxed back to the officer who will then serve the suspect with the warrant. The judge will also forward the officer the original affidavit /warrant faxed to the judge and signed by him/her.

Since all suspects will be transported to the JPCC lock-up for booking, paramedics will be on call to respond at the lock-up to draw the blood pursuant to the warrant. The officers will not have to transport the subjects to the hospital and wait for the sample to be taken. Once the warrant is signed by the judge, the officer will contact East Jefferson General Hospital Emergency Medical Services who will respond to draw the blood.

NORMA B. BROUSSARD
ASSISTANT DISTRICT ATTORNEY, 24th JDC
JEFFERSON PARISH DISTRICT ATTORNEY'S OFFICE
September 2012

The paramedic will obtain the sample using the appropriate kit provided by State Police. Once the sample is taken, it will be given back to the officer who will follow his/her agency's evidence collection and processing policy. The sample should be delivered to the designated collection site within 24 hours following the end of the collecting officer's shift and stored in the evidence room. It shall then be transported to the laboratory utilized for the analysis at the earliest possible opportunity after collection, not to exceed 10 days. Title 55, Part 1, Chapter 5, §555(G)(3) and §581(C) of the **Louisiana Administrative Code** requires all blood and urine specimens be delivered to the laboratory within seven days after collection (this includes holidays, weekends, etc). Failure to follow this regulation can affect the admissibility of the test results.

We do not want to create additional evidentiary concerns as a result of obtaining a search warrant and obtaining a blood sample. Primarily, we need to ensure the admissibility of other evidence, such as the refusal and video, if any, by following standard DWI procedure: The arresting officer will bring the offender to the appropriate facility as normal. The officers will be instructed to follow normal protocol, such as reading the statutory warning to the suspect, either obtaining a refusal or a breath sample, and videotaping the suspect if that is the usual procedure. Therefore, if any problems arise with the warrant or the blood sample, the refusal and the video will be unaffected.

STANDARD DWI PROCEDURES ARE TO BE FOLLOWED:

- 1) driver arrested (must be based on probable cause);
- 2) officer reads arrestee the Rights Form relating to chemical test for intoxication;
- 3) arrestee refuses chemical test;

PROCEDURE TO FOLLOW TO OBTAIN SEARCH WARRANT AFTER REFUSAL:

- 4) officer prepares an affidavit and search warrant for blood (make two copies and sign two);
- 5) officer calls judge/commissioner;
- 6) judge/commissioner swears officer on the phone;
- 7) officer faxes affidavit and warrant to judge;
- 8) judge/commissioner reviews affidavit and signs or refuses to sign;
- 9) if judge/commissioner signs the warrant, (s)he faxes the signed warrant to officer;
- 10) officer serves arrestee with signed warrant (also read it to them);
- 11) officer contacts EJ EMS to respond for a blood draw;

- 12) officer transports the arrestee to JPCC if not there already to have paramedic withdraw blood;
- 13) officer must personally observe the blood being drawn from the subject by paramedic;
- 14) paramedic will use the entire content of blood collection kit approved by the Louisiana State Police Crime Lab (make sure to check expiration date on kit). Under no circumstances should other types of blood tubes or swabs be substituted for those in the approved kit. Although it would be preferable to use the needle included in the kit, if a different needle needs to be used because of the vein size, please note it in the report. Since this is not an implied consent case, using a different needle is not an issue;
- 15) seals and forms supplied with the kit are to be used in accordance with the instructions included in the kit; the consent form is not necessary as the person is being tested pursuant to a search warrant;
- 16) officer takes sample to evidence room for storage;
- 17) officer takes blood to crime lab within 10 days (lab then sends report to arresting agency);
- 18) Refrigeration of the sample is not necessary; however, it is desirable to prevent the degradation of certain drugs when a drug screen is being requested. Do not expose the sample to excessive heat where solidification may occur.
- 19) Officer prepares the return and inventory and includes one of the copies of the affidavit with his original signature to send to judge/commissioner.
- 20) Judge/commissioner mails a copy of the warrant with his/her original signature to arresting agency.

STATE OF LOUISIANA

PARISH OF JEFFERSON

RETURN ON SEARCH WARRANT

I HEREBY CERTIFY THAT, being a Peace Officer under the laws of the State of Louisiana, the foregoing Warrant came to hand on the day it was issued and that it was executed on the _____ day of _____, 20____, by making the search directed therein and seizing during such search the following described property:

A specimen of blood of suspect, _____, DOB _____.

PEACE OFFICER

NOW THEREFORE, considering the foregoing return, IT IS ORDERED that the property seized in the execution of this search warrant be kept in the custody of the police department that executed the warrant or the Crime Laboratory doing the chemical testing, to be used as evidence or until further order of the Court.

DISTRICT JUDGE/CRIMINAL COMMISSIONER
TWENTY-FOURTH JUDICIAL DISTRICT COURT